

REMARKS/ARGUMENTS

Please consider the amendments above and the remarks below in response to the final Office Action mailed on May 17, 2004. As the Office Action was under final, a Request for Continued Examination under 37 C.F.R. § 1.114 has been filed with filing of this response. In the Office Action, proposed drawing corrections in the form of a new Figure 5 were refused entry for allegedly introducing new matter. Claim 21 was rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the written description requirement. Claims 1, 3-6 and 10 were rejected under 35 U.S.C. §102(b) over SU 321,252 to Abolina ("Abolina"). Claims 2, 7, 8, and 11-20 were rejected under 35 U.S.C. §103(a) over combinations of Abolina with U.S. Patents Nos. 5,599,283 to Lindenmeyer ("Lindenmeyer"); 5,383,844 to Munoz ("Munoz"); and 4,550,869 to Johnson ("Johnson").

With respect to the rejection of Claim 21 under 35 U.S.C. §112, first paragraph, Claim 21 has been cancelled to expedite consideration of the arguments below. Cancellation should be without prejudice as the Applicant reserves the right to raise the issues associated with Claim 21 and proposed Figure 5 in the future. The rejection of Claim 21 under 35 U.S.C. §112, first paragraph, has therefore been rendered moot.

Claim 1 as amended in the Amendment filed on February 26, 2004 recites an upper arm part having a half shell defining a recess configured to fit over a shoulder, a forearm part also in the shape of a half shell configured to receive a forearm wherein the upper arm part and the forearm part are connected by an adjustable, flexible connecting strap.

In addition, Claim 1 also recites a support strap and a holding strap. The support strap supports the forearm part. The holding strap is configured to pass behind the back to the upper arm part wherein one end of the holding strap is fixed to the forearm part and the second end is secured to the upper arm part. The holding strap serves to hold the forearm part against the abdomen for additional security. The holding strap is illustrated in Figure 3 of the present application, wherein a gap is shown between the patient's right bicep and the torso of the patient and wherein the gap is crossed by the laterally extending strap 5 which attaches to strap 3.

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In the Office Action, it was alleged that the figures in Abolina show that "the upper arm part (2) has a portion extending across the back wherein an end of the holding strap is secured to the upper arm part." The Applicant respectfully disagrees.

There is no indication in the figures of Abolina that strap 3 attaches at any point to strap 5 on the upper right arm of the wearer. It appears to the Applicant that each of the straps 5 of Abolina are closed loops that connect only to themselves. Strap 5 on the upper right arm of the wearer in Abolina extends around the upper right arm and no other strap is shown extending from the strap 5. No rear view of the wearer and strap 5 is shown by the figures of Abolina to illustrate attachment of other straps, nor are there broken or hidden lines showing an attachment of another strap to strap 5. Also, unlike Figure 3 of the present application, the figures of Abolina do not show a gap between the upper right arm and abdomen of the wearer wherein strap 3, or any other strap, attaches to strap 5.

Also, there is no suggestion in Abolina that strap 3 extends across the back of the patient towards the strap 5 on the upper right arm. Strap 3 is shown in the figures of Abolina as being attached at a first end to part 2 on the left shoulder of the wearer and extending downwards from the shoulder over the wearer's left pectoral to attach to or loop under a wrist portion of part 1. After looping under the wrist portion of part 1, the strap 3 of Abolina extends over the front of the wrist portion 1 and then extends sharply outwards and upwards to pass between the wearer's left arm and torso. Based on the sharp outwards and upwards angle of the strap 3, it appears that the second end (which is not shown in the figures of Abolina) of strap 3 would attach to a rear side of part 2 where part 2 extends over the left shoulder of the wearer.

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Even if the strap 3 of Abolina were to extend across the back to attach to strap 5 at the upper right arm, after extending sharply upwards and outwards at the left arm for such a long distance strap 3 would provide little support and tend to slide down the patient's back and torso with the weight of the forearm and part 1.

In contrast, strap 5 of the present application is shown in Figure 3 as extending mostly rearwards, and very little upwards, from its attachment to forearm part 2. In addition, strap 5 of the present application attaches to strap 3 at a position much lower on the patient's right arm, near the elbow. This helps the strap 5 of the present application firmly hold the forearm against the abdomen.

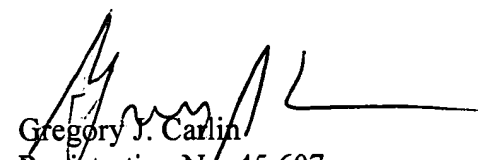
Applicant could not find any disclosure or suggestion in the remaining cited references of the holding strap described in Claim 1 of the present application. The rejection of Claim 1 under 35 U.S.C. §102(b) has therefore been overcome and Claim 1 should be allowable. The remaining Claims 2-8 and 10-20 depend from, and further patentably distinguish, allowable Claim 1. Therefore, the rejections of Claims 2-8 and 10-20 under 35 U.S.C. §§102(b) and 103(a) over combinations of Abolina, Lindenmeyer, Munoz and Johnson have also been overcome.

In view of the remarks and amendments presented above, it is respectfully submitted that claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

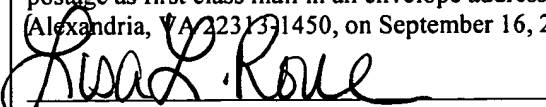
Respectfully submitted,


Gregory J. Carlin
Registration No. 45,607

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

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I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 16, 2004


Lisa L. Rone

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